

LOWENSTEIN SANDLER PC

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Roseland, New Jersey 07068
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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ILLINOIS NATIONAL INSURANCE
COMPANY,

Plaintiff,

vs.

WYNDHAM WORLDWIDE OPERATIONS,
INC; WYNDHAM WORLDWIDE
CORPORATION; WYNDHAM VACATION
OWNERSHIP, INC.; and, WYNDHAM RESORT
DEVELOPMENT CORPORATION,

Defendants.

Civil Action No. 09-1724

**DECLARATION OF
SHERILYN PASTOR, ESQ.**

Document Electronically Filed

I, SHERILYN PASTOR, ESQ. of full age, being duly sworn according to law, do depose and state as follows:

1. I am Partner at the law firm of McCarter & English, Four Gateway Center, 100 Mulberry Street, Newark New Jersey 07102, where I am the Practice Leader of its Insurance Coverage Group. I have been a Partner for approximately 12 years and Practice Leader for approximately 8 years. I am a member of the firm's Executive Committee. A copy of my biography is attached as Exhibit A.

2. I offer this Declaration in support of Defendants' Motion for Attorneys' Fees and Expenses under New Jersey Court Rule 4:42-9(a)(6).

3. I am a member in good standing of the bars of New Jersey and New York. Presently, I am also a member of the New Jersey Supreme Court's Professional Responsibility Rules Committee as well as the Vice Chair and Regional Representative of the ABA's Insurance

Coverage Committee. I have been a co-chair of various Insurance Coverage Litigation Committees since 2002.

4. I graduated *magna cum laude* from Seton Hall University School of Law in 1988. Following a one-year clerkship, I joined McCarter & English, LLP in 1989.

5. My practice is concentrated in representing policyholders in insurance coverage actions against insurance carriers. Over the course of my legal career, I have litigated countless insurance coverage actions and recovered hundreds of millions of dollars in insurance assets for policyholders. I have tried insurance coverage cases. I have also written extensively about, and lectured on, insurance coverage issues.

6. My current billable rate is \$570.00 per hour. The rates of the partners and associates in McCarter's Insurance Practice Group range from \$240 per hour for a first year associate to \$640 per hour for the most senior partner. The rates of legal assistants range from \$165 per hour to \$205 per hour.

7. I reviewed the Declaration of Michael David Lichtenstein, Esq. (dated September 22, 2010) submitted in this matter. In doing so I reviewed the hourly billable rates charged by all the Lowenstein Sandler PC ("Lowenstein") and Coughlin Duffy LLP ("Coughlin") attorneys and paraprofessionals in this matter, identified in paragraphs 51-65 of the Lichtenstein Declaration.


8. Based upon that review and my personal knowledge and experience with insurance coverage matters, I conclude that the rates charged by each Lowenstein attorney are reasonable and well within the prevailing market rate that is customarily charged in New Jersey for representation of policyholders in insurance coverage lawsuits based on each attorney's experience, reputation and ability.

9. The hourly billable rates charged by Coughlin Duffy do not diminish the reasonableness of Lowenstein's attorneys' fees. Lowenstein Sandler's Insurance Practice Group primarily represents policyholders in insurance coverage actions. When sophisticated insurers deny coverage to their corporate policyholders, there is only small number firms in this state with

the experience, skill, and reputation to vigorously represent policyholders' interests, which includes Lowenstein and McCarter.

10. In contrast, Coughlin Duffy primarily represents insurance companies in such actions. Traditionally, insurance defense law firms, such as Coughlin Duffy, charge much lower hourly rates to insurers in exchange for a high volume of work and repeat business from insurers.

11. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the above statements are true and correct.


Sherilyn Pastor, Esq.

DATED: October 8, 2010

EXHIBIT A

SHERILYN PASTOR

McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

Professional Background: **McCarter & English, LLP**
Executive Committee (2009-Present)
Practice Leader, Insurance Coverage Group (2002-Present)
Partner (1998-Present)
Associate (1989-1998)

Admitted to Practice: New Jersey
New York
Court of Appeals, 3rd Circuit
U.S. District Courts (N.J. Dist. Ct., S.D.N.Y., E.D.N.Y.)

Nature of Practice: Insurance coverage litigation and advice

Degrees: Seton Hall Law School, JD (*Magna Cum Laude* & Law Review Editor)
Seton Hall University, BA (*Cum Laude*)

Relevant Professional Activities/Accomplishments:

New Jersey Super Lawyer (2005 - 2010)
The International Who's Who of Insurance & Reinsurance (2010)
NJBIZ Best 50 Women in Business Award (2010)
Member, N.J. Supreme Court's Professional Responsibility Rules Committee
(2002-Present)
ABA's Insurance Coverage Litigation Committee
Vice-Chair, Policyholder Side (2009-Present)
Regional Representative (2003-Present)
Co-Chair, Products Subcommittee (2007-2009)
Co-Chair, CGL Subcommittee (2005-2007)
Co-Chair, Bad Faith Subcommittee (2002-2005)
Editorial Board, *The Insurance Coverage Law Bulletin* (2004-Present)
Editorial & Advisory Board, *Appleman on Insurance* (2006-Present)
Faculty, National Institute for Trial Advocacy
Trial & Deposition Skills Programs (2003-2005)
Member & Presenter, District VA Ethics Committee (1998-2002)

Representative Cases: American Guarantee & Liability Ins. Co. v. Owens-Brockway Glass Container Inc., No. 112634/10; E.E. Cruz & Co. v. Hartford Fire Ins. Co., No. 08-2625 (3d Cir.); St. Paul Fire Ins. Co. v. Brother Int'l Corp., No. 07-3886 (3d Cir.); Wakefern Food Corp. v. Liberty Mutual Fire Ins. Co., 406 N.J. Super. 524, 968 A.2d 724 (App. Div.), *certif. denied*, 200 N.J. 209, 976 A.2d 385 (2009); Great Am. Alliance Ins. Co. v. Borden Chem. Inc., No. 05-CVH-1011095 (Ohio C.P.); Liberty Mut. Fire Ins. Co. v. Exel Inc., No. 04-CI-01144 (Ky. Cir. Ct.); Koken v. Reliance Ins. Co., No. 269 M.D. 2001 (Pa. Commw. Ct.); IMO v. Transamerica Corp., Docket No. MRS-L-0019-09 (N.J. Law Div.); Lucent Technologies Inc. v. National Union Ins. Co., 01 CV 3491 (N.J. Dist. Ct.); Owens Ins. Ltd. v. Reiss Holdings, Ltd., MID-L-9575-02 (N.J. Ch. Div.); Hartford Ins. Co. v. Sears Roebuck & Co., 3-03 CV 04 (N.J. Dist. Ct.); Crum & Forster v. Homart Dev. Corp., MON-L-3304-00 (N.J. Law Div.); Pharmacia Corp. v. Alcon Laboratories, Inc., 201 F. Supp. 2d 335 (D.N.J. 2002) Employers Cas. Co. v. Owens Ins. Ltd., C-51-96 (N.J. Ch. Div.); Appalachian Ins. Co. v. General Electric Co., 96-122807 (N.Y. Sup. Ct.); Owens-Illinois, Inc. v. United Ins. Co., 138 N.J. 437, 650 A.2d 974 (1994); In re New York City Asbestos Litigation (New York Powerhouse cases).

Publications: Pastor, Horowitz & Platzman-Diamant, *New Jersey Court Clarifies Policyholders' Right To Recover Out-Of-State Coverage Counsel Fees*, Ins. Cov. Law Bulletin (pending 2010); *Federal Appeals Court Vacates Proposed Rule Calling for SEC Regulation of Fixed Index Annuities*, Ins. Law Community Posting (July 2010); *Duty to Indemnify - Personal and Advertising Injury*, New Appleman On Insurance Law Library Ed., Ch. 19 (June 2010); Pastor, Lee & Strutt, *In-House Counsel: Who Has You Covered?*, Ins. Cov. Law Bulletin (Apr. 2010); Pastor & Lee, *Guarding the Guardians: Companies Should Examine Policies When Insuring In-House Lawyers*, CT Law Tribune, (Feb. 2010); *A New York Story As Told by a Delaware Court: New York Law Permits Post-Loss Assignment of Insurance Rights and Calls for "All Sums" Allocation*, Env. Claims Journal, Vol. 22, No. 1 (Jan. 2010); *What Does "Physical Damage" Mean When It Doesn't Work?*, Coverage, Vol. 19, No. 5 (Sept./Oct. 2009); *Navigating Subrogation Rules: A Rough Ride for Some Additional Insureds*, ABA Committee News (Spring/Summer 2009); *Statute of Limitations for Insured's Fraud Claim Cannot Be Decided Against The Insured on Demurrer*, Vol. 8, No. 4 (May 2009); *What's Yours is Mine: Sharing Other People's Insurance*, PLI - Insurance Coverage 2008: Claim Trends & Litigation (April 2008); *What's Yours is Mine, What's Mine is Mine*, CT Law Tribune (Feb. 2008); *New Jersey Court Applies Anti-Subrogation Rule to Insurer's Insured*, Ins. Cov. Law Bulletin (Dec. 2007); Pastor & Giordano, *What Bank Directors & Officers Should Know About D&O Insurance*, Community Banker (Nov. 2007); Pastor & Fanning, *Considering Coverage For Consumer Protection Claims*, Coverage, Vol. 17, No. 7 (Sept./Oct. 2007); *Introduction to Insurance*, Appleman Insurance Law Practice Guide (2007); *Holding Attorneys Accountable for Building a Practice*, Managing Partner USA, Vol. 1, No. 4 (Nov. 2006); *Dealing with Insurers in Liquidation*, Ins. Cov. Law Bulletin, Vol. 5, No. 6 (July 2006) and LJN's Equipment Leasing Newsletter, Vol. 25, No. 8 (Sept. 2006); *Electronic & Computer Crime Policy Covers A Client's Fraudulent Instruction*, Ins. Cov. Law Bulletin, Vol. 5, No. 1 (Feb. 2006); *N.J. Supreme Court Rules Shooting Injuries are Covered Under Homeowner's Policy*, Ins. Cov. Law Bulletin, Vol. 5, No. 1 (Feb. 2006); *Insurer Must Defend Home Builder for Defective Construction Regardless of Whether Complaint Alleges Water Damage During Policy Period*, Ins. Cov. Law Bulletin, Vol. 4, No. 11A (Dec. 2005/Jan. 2006); *Policyholder's Alleged Negligence Is Not An "Independent Cause" of Its Loss and Does Not Void Its Coverage Under Banker's Blanket Bonds*, Ins. Cov. Law Bulletin, Vol. 4, No. 11 (Dec. 2005); *NJ's Verbal Threshold Standard Clarified, at Least for Now*, Ins. Cov. Law Bulletin, Vol. 4, No. 10 (Nov. 2005); *Absolute Pollution Exclusion Applies Only to Traditional Environmental Pollution Claims*, Ins. Cov. Law Bulletin, Vol. 4, No. 5 (June 2005); *Insurers' Rights to Recoup Defense Costs*, Ins. Cov. Law Bulletin, Vol. 4, No. 3 (April 2005); *NY Federal Court Holds Leaded Dust Losses Not Barred By CGL Policy's Pollution Exclusion*, Ins. Cov. Law Bulletin, Vol. 3, No. 12 (Jan. 2005); Pastor, Pyrich & Sattin, Appleman on Insurance 2d, Insolvency, Liquidation & Rehabilitation, Vol. 26 (2005); *Reverse Risk Transfer: Insurers Seeking Reimbursement of Defense Costs from Their Policyholders*, Commercial Damages Reporter, Vol. 19, Issue 7 (Oct. 2004) (reprinted in part AIA Connecticut News, 14 (Winter 2005-06); *Insurers Compelled to Produce Reinsurance and "Other Policyholder Claim" Information*, Ins. Cov. Law Bulletin, Vol. 3, No. 7 (Aug. 2004); *NJ Takes the Lead on Another Environmental Coverage Issue: Allocation Choice-of-Law*, Ins. Cov. Law Bulletin, Vol. 3, No. 6 (July 2004); *Indiana Court of Appeals Rejects Primary Insurers' Invocation of "All Sums" Rule When Allocating Loss*

Among Triggered Policy Years, Ins. Cov. Law Bulletin, Vol. 3, No. 5 (June 2004); *Insurer Obligated to Defend CEO Until Court Permits Rescission*, Ins. Cov. Law Bulletin, Vol. 3, No. 3 (April 2004); *Advertising Injury Coverage for Cyber-Risks*, National Law Journal (March 15, 2004) (reprinted Findlaw.com, March 2004); *Trademarked and Service-Marked Title Coverage Encompasses More than Names of Literary Works*, Findlaw.com (June 2003); *Insurers Must Pay Reasonably Estimated, Future Asbestos Losses*, Findlaw.com (June 2003); *N.J. Supreme Court Holds that Non-Cumulation Clauses Cannot Apply to the Allocation of Long-Tail Claims*, Findlaw.com (April 2003); *Pennsylvania Court Rules Carbon Monoxide is a Pollutant*, Findlaw.com (April 2003); *An Overview of the Terrorism Risk Insurance Act of 2002*, Mealey's Lit. Rpts: Ins., Vol. 17, No. 7 (Dec. 10, 2002) (reprinted Mealey's Emerging Ins. Disputes, Vol. 7, No. 24 (Dec. 17, 2002); Mealey's Bus. Interruption: Ins., Vol. 2, No. 1 (Dec. 12, 2002).

Speaking Engagements:

Round Table Discussion Leader, ABA Ins. Coverage Committee Annual Meeting. Making Rain: Practical Tips and Advice on Developing Business and Relationships (2011)

Lecturer, Strafford Webinar. Insurers' Duty to Defend: Resolving Defense Cost Issues (2010)

Lecturer, Westchester/S. CT American Corporate Counsel Association. Insuring Against In-House Perils (2009).

Lecturer, PLI - Insurance Coverage 2009: Claim Trends & Litigation. What's Yours is Mine: Sharing Other People's Insurance (2008).

Panelist, NJ ICLE Bad Faith Seminar. New Jersey Insurance Laws & RICO: Perfect Together (2008).

Panelist, ABA Annual Meeting. What's Yours is Mine: Sharing Other People's Insurance (2008).

Lecturer, NJ League of Community Bankers' Convention. Taming Risks: D&O Insurance Coverage & Subprime Lending Claims (2008).

Lecturer, PLI - Insurance Coverage 2008: Claim Trends & Litigation. What's Yours is Mine: Sharing Other People's Insurance (2008).

Lecturer, NJ Corporate Counsel Association Conference. Developing Successful Relationships With Outside Auditors (2006).

Lecturer, Practice Group Leadership Forum. Accountability Principles: Holding Lawyers Accountable for Their Commitment to Building the Practice (2006).

Panelist, Practice Group Leadership Forum. The Changing Role of Practice Group Leaders (2006).

Lecturer, ABA Ins. Coverage Committee Mid-Year Meeting. When Does the Money Run Out?: Insolvent and Run-Off Insurers (2006).

Lecturer, ABA Ins. Coverage Committee Mid-Year Meeting. Allocation: Who Splits the Baby? (2005).

Lecturer, Mealey's Conference. Construction Defect Insurance (2004).

Lecturer, ABA Mid-Year Meeting. Punitive Damages, *Campbell v. State Farm* (2003).

Round Table Discussion Leader, ABA Ins. Coverage Committee Mid-Year Meeting. Asbestos/Bankruptcy: Is it Really the End Game? (2003).

Lecturer, Mealey's Conference. Emerging Insurance Battles - Allocation and Exhaustion (1998).

Quoted on the Media:

Risk & Insurance, Sept. 15, 2009 (Quote of the Month/UpFront - The Two Sides to Web Detection); NJBiz, Apr. 27, 2009 (Wakefern wins coverage for 2003 blackout losses); Business Insurance, Apr. 24, 2009 (Wakefern wins coverage for 2003 blackout losses); Business Insurance, Mar. 23, 2009 (AIG bailout); Business Insurance, Nov. 24, 2003 (WTC coverage case); Insurance Day, Sept. 30, 2003 (Exxon Mobile punitive verdict and tort reform); Business Insurance, Aug. 18, 2003 (Business Interruption

coverage); New York Daily News, Aug. 18, 2003 (same); Chicago Sun-Times, Aug. 18, 2003 (same); Akron Beacon Journal, Aug. 16, 2003 (same); Corporate Legal Times, Aug. 2003 (Uzan/Motorola/Nokia dispute); Industry Insider: Business of Law, *Burning Question*, Star Ledger, Apr. 18, 2003 (Punitive Damages; *State Farm v. Campbell*).